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Hon. Walter T. McGovern

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CV-99-1711
	)	
ARLINGTON VALLEY LAND	)	STIPULATION AND ORDER
COMPANY, INC. (administered by Susan	)	AMENDING CONSENT
Stanley in her official capacity as	)	DECREE
bankruptcy trustee), MICKIE JARVILL,	)	
and individual, RONALD NOBACH, an	)	
individual, ROBERT HILD, an individual,	)	
NOBACH-PACIFIC, a general partnership,	)	
and NOBACH-HILD, a general partnership	)	
	)	
Defendants.	)	

1 WHEREAS, the claims brought by the United States of America (“United  
2 States”) in this action were resolved by consent decrees previously entered by this  
3 Court;  
4

5 WHEREAS, Paragraphs 18-22 of the Consent Decree entered by this Court  
6 on or about February 3, 2000 (“Consent Decree”), provides for the protection and  
7 preservation of certain properties formerly owned by some of the defendants in  
8 this action, and those properties now are owned and preserved by the City of  
9 Arlington consistent with the Consent Decree;  
10  
11

12 WHEREAS, the City of Arlington desires to develop a road that would run  
13 through some of the property identified in Paragraphs 18-22 of the Consent  
14 Decree, including Lot 11 and Lot 12;  
15

16 WHEREAS, the City of Arlington owns Lot 11 identified in the Consent  
17 Decree, and Vern Rengen owns Lot 12 identified in the Consent Decree;  
18

19 WHEREAS, most of the footprint of the desired road adjacent to Lot 11  
20 would be located on the “60’ Road Easement” shown on the map in Appendix B  
21 of the Consent Decree, but some portion of the desired road would be located on a  
22 part of Lot 11 that currently is subject to restrictions imposed pursuant to the  
23 Consent Decree;  
24  
25  
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27

1 WHEREAS, the United States, through the United States Army Corps of  
2 Engineers and the United States Environmental Protection Agency, has  
3 determined that it would be appropriate to lift the Consent Decree's land use  
4 restrictions to allow road development on a portion of Lot 11 in exchange for  
5 transfer to the City of Arlington of a much larger portion of Lot 12 and placement  
6 of land use restrictions on the transferred portion of Lot 12;  
7  
8

9 WHEREAS, the determination of the United States in the previous  
10 paragraph includes a determination that the portion of Lot 12 to be exchanged is  
11 not a "water of the United States" within the meaning of the Clean Water Act, 33  
12 U.S.C. §§ 1251 *et seq.*;  
13  
14

15 WHEREAS, the portions of Lot 11 and Lot 12 that would be subject to this  
16 exchange are shown on the map in Attachment A in green (Lot 11) and blue and  
17 red (Lot 12), respectively, and the legal descriptions of those portions of Lot 11  
18 and Lot 12 are provided in Attachments B and C, respectively;  
19  
20

21 WHEREAS, Vern Rengen, the owner of Lot 12, has agreed to transfer to  
22 the City of Arlington those portions of Lot 12 shown on the map in Attachment A  
23 and described in Attachment C, in exchange for those portions of Lot 11 shown on  
24 the map in Attachment A and described in Attachment B, so that road  
25 development can proceed as planned by the City of Arlington;  
26  
27

1 WHEREAS, the City of Arlington has agreed to acquire those portions of  
2 Lot 12 shown on the map in Attachment A and described in Attachment C from  
3 Vern Rengen and to protect and preserve those portions of Lot 12 in the same  
4 manner as the other parcels the City of Arlington now owns that are the subject of  
5 the Consent Decree;  
6

7  
8 WHEREAS, Paragraph 47 of the Consent Decree requires that all  
9 modifications to the Consent Decree be in writing and approved by this Court; and  
10

11 WHEREAS, this modification of the Consent Decree has no effect on the  
12 defendants named in this action because the defendants no longer have any legal  
13 interest in the properties protected by Paragraphs 18-22 of the Consent Decree,  
14 and all claims against defendants have been resolved, so that this modification  
15 affects the legal interests of the United States, the City of Arlington, and Vern  
16 Rengen,  
17

18  
19 NOW THEREFORE, in consideration of the foregoing recitals, and upon  
20 the consent of the undersigned, it is hereby ORDERED, ADJUDGED, and  
21 DECREED that the Consent Decree is modified as follows:  
22

23 1. Upon entry by the Court of this Order, the City of Arlington may  
24 acquire from Vern Rengen the portion of Lot 12 shown on the map in Attachment  
25 A and further described in Attachment C, and Vern Rengen may acquire from the  
26  
27

1 City of Arlington the portion of Lot 11 shown on the map in Attachment A and  
2 described in Attachment B.

3           2.     Prior to transfer of the portion of Lot 11 described in paragraph 1, the  
4 City shall remove the restrictions on use previously placed on that portion of Lot  
5 11 by the covenants recorded under Snohomish County Auditor's File No.  
6 200710160454. Upon acquisition of the portion of Lot 12 described in Paragraph  
7 1, the City shall place on that portion of Lot 12 the same restrictions on use placed  
8 on the other parcels subject to the covenants recorded under Snohomish County  
9 Auditor's File No. 200710160454.  
10

11           3.     After the terms of Paragraph 2 have been met, the City of Arlington  
12 shall record this Stipulation and Order Amending Consent Decree as provided in  
13 Paragraph 18 of the Consent Decree.  
14

15           4.     After the terms of Paragraphs 2 and 3 have been met, the provisions  
16 of Paragraph 4 of the Consent Decree (requiring owners of properties including  
17 Lot 11 and portions of Lot 12 to comply with the terms of the Consent Decree):  
18

19 (a) shall apply to the portion of Lot 12 shown on the map in Attachment A and  
20

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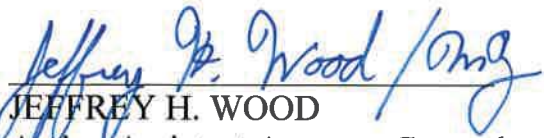
1 further described in Attachment C; and (b) shall no longer apply to the portion of  
2 Lot 11 shown on the map in Attachment A and further described in Attachment B.  
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6 SO ORDERED THIS 11th DAY OF December, 2017.  
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9   
10 \_\_\_\_\_  
11 Hon. Walter T. McGovern  
12 UNITED STATES SENIOR DISTRICT JUDGE  
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1 **FOR THE UNITED STATES OF AMERICA:**

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5 Date: 12/5/2017


  
JEFFREY H. WOOD  
Acting Assistant Attorney General  
Environment & Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530

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7  
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11  
12 Date: 12/5/2017

  
MICHAEL J. ZEVENBERGEN  
Senior Counsel  
Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
c/o NOAA Damage Assessment  
7600 Sand Point Way, NE  
Seattle, Washington 98115

1 **FOR THE CITY OF ARLINGTON:**

2  
3  
4  
5 Date: 12/3/2017

6   
7 STEVEN J. PEIFFLE  
8 Arlington City Attorney  
9 Bailey, Duskin & Peiffle, P.S.  
10 P.O. Box 188  
11 Arlington, WA 98223  
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1 **FOR VERN RENGEN:**

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5 Date: 12-4-17

Vern Rengen  
VERN RENGEN  
5802 Cemetery Road  
Arlington, WA 98223

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2017, I caused a true copy of the STIPULATION AND ORDER AMENDING CONSENT DECREE to be served on each of the following named persons at his or her last known addresses in the manner indicated below:

STEVEN J. PEIFFLE Arlington City Attorney Bailey, Duskin & Peiffle, P.S. P.O. Box 188 Arlington, WA 98223 Email: steve@snolaw.com	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via E-mail <input checked="" type="checkbox"/> Via First-Class mail, postage pre-paid <input type="checkbox"/> Notice of electronic filing using CM/ECF
VERN RENGEN 5802 Cemetery Road Arlington, WA 98223 Email: vern@pennyleetrucking.net	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via E-mail <input checked="" type="checkbox"/> Via First-Class mail, postage pre-paid <input type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Notice of electronic filing using CM/ECF

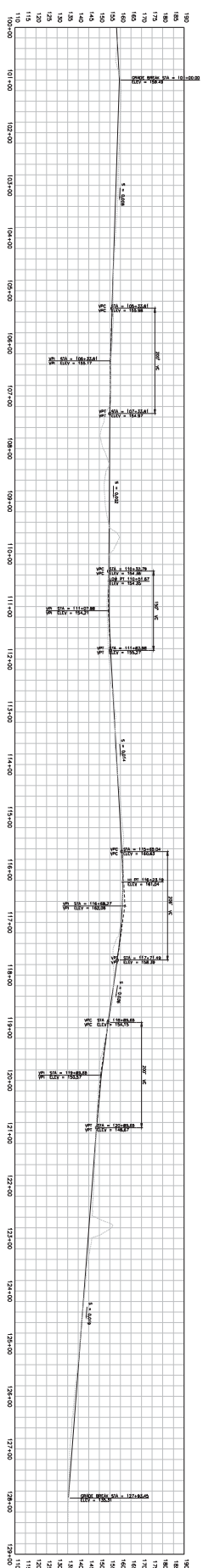
/s Michael J. Zevenbergen  
MICHAEL J. ZEVENBERGEN

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**ATTACHMENT A**

STIPULATION AND ORDER  
AMENDING CONSENT DECREE

U. S. DEPARTMENT OF JUSTICE  
Environment and Natural Resources Division  
7600 Sand Point Way NE  
Seattle, WA 98115

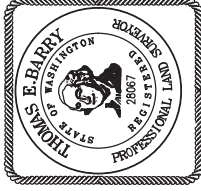


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**ATTACHMENT B**

STIPULATION AND ORDER  
AMENDING CONSENT DECREE

U. S. DEPARTMENT OF JUSTICE  
Environment and Natural Resources Division  
7600 Sand Point Way NE  
Seattle, WA 98115



TAX # 31051400303200

**PARCEL ADDRESS:**  
UNKNOWN  
ARLINGTON, WA 98223

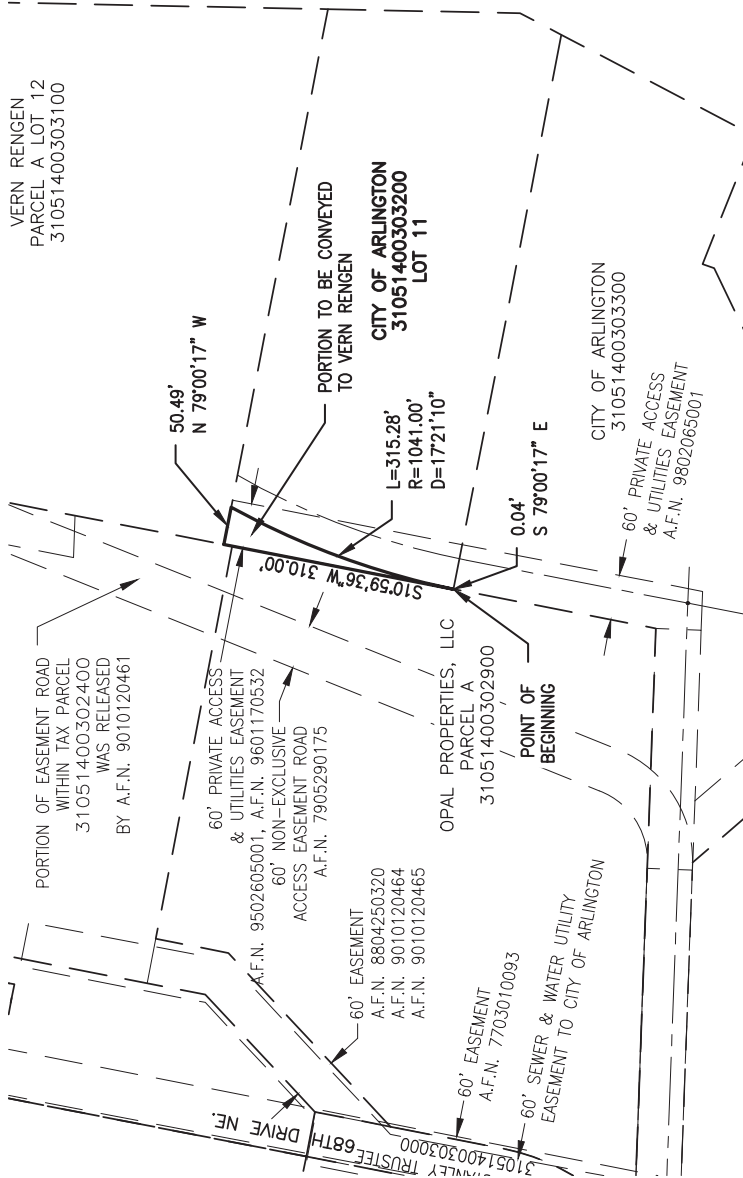
**OWNER:**  
CITY OF ARLINGTON



**S.W. 1/4 SECTION 14, TWP 31 N, R 05 E, W.M.**

**ACQUISITION LEGAL:**  
SEE ATTACHED EXHIBIT A

REV. 00 4/19/17



**CITY OF ARLINGTON  
PUBLIC WORKS**

**ARLINGTON VALLEY ROAD  
CITY P.O.#: 3356**

*ORIGINAL AREA	=	231,631 S.F.
TRANSFER AREA	=	5,334 S.F.
REMAINDER AREA	=	226,297 S.F.
* approximate per public record dimension		

**Exhibit B**

4/19/17

## EXHIBIT A

### ACQUISITION PARCEL

City of Arlington to Vern Rengen

Tax Parcel # 31051400303200

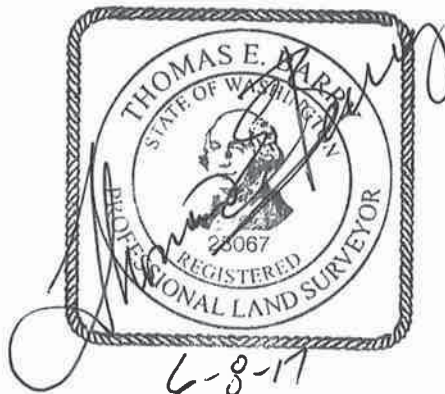
Portion of Lot 11 AFN 9802065001

### LEGAL DESCRIPTION FOR THE PORTION WEST OF THE "ARLINGTON VALLEY ROAD" RIGHT OF WAY

THAT PORTION OF LOT 11 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, BEING A PORTION OF LOTS 9, 10 AND 11 OF THE ARLINGTON INDUSTRIAL PARK, AS RECORDED UNDER AUDITOR FILE NUMBER 7803100289, LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M. IN THE CITY OF ARLINGTON, COUNTY OF SNOHOMISH, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SAID LOT 11 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001; THENCE SOUTH  $79^{\circ}00'17''$  EAST, ALONG THE SOUTH LINE OF SAID LOT 11, A DISTANCE OF 0.04 FEET; THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT, WHICH CENTER OF CURVE BEARS SOUTH  $78^{\circ}26'22''$  EAST, HAVING A RADIUS OF 1041.00 FEET, THROUGH A CENTRAL ANGLE OF  $17^{\circ}21'10''$ , AN ARC DISTANCE OF 315.28 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 11; THENCE NORTH  $79^{\circ}00'17''$  WEST, ALONG SAID NORTH LINE, A DISTANCE OF 50.49 FEET TO THE NORTHWEST CORNER OF SAID LOT 11; THENCE SOUTH  $10^{\circ}59'36''$  WEST, ALONG THE WEST LINE OF SAID LOT 11, A DISTANCE OF 310.00 FEET TO THE **POINT OF BEGINNING**.

City of Arlington to Vern Rengen 4-19-17



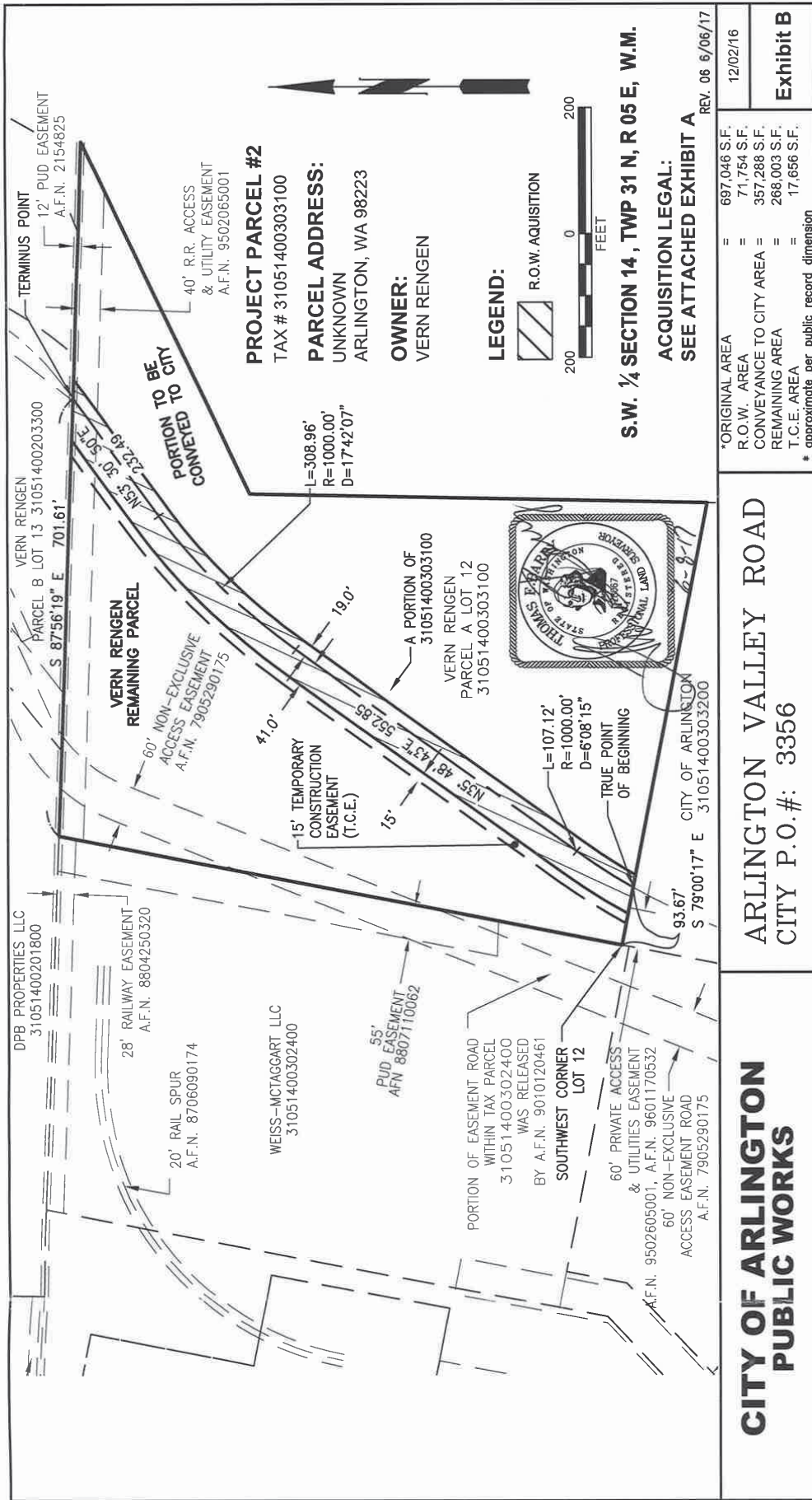
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**ATTACHMENT C**

STIPULATION AND ORDER  
AMENDING CONSENT DECREE

U. S. DEPARTMENT OF JUSTICE  
Environment and Natural Resources Division  
7600 Sand Point Way NE  
Seattle, WA 98115





*ORIGINAL AREA	=	697,046 S.F.
R.O.W. AREA	=	71,754 S.F.
CONVEYANCE TO CITY AREA	=	357,288 S.F.
REMAINING AREA	=	268,003 S.F.
T.C.E. AREA	=	17,656 S.F.
* approximate per public record dimension		

12/02/16
<b>Exhibit B</b>

<b>CITY OF ARLINGTON</b> <b>PUBLIC WORKS</b>
---

## EXHIBIT A

PARCEL NO. 2

Vern Rengen

Tax Parcel #31051400303100

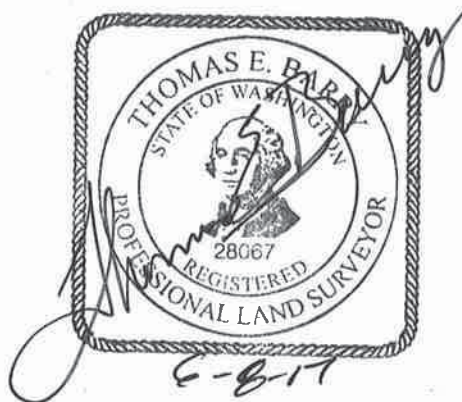
Portion of Lot 12 AFN 9802065001

### LEGAL DESCRIPTION FOR THE "ARLINGTON VALLEY ROAD" RIGHT OF WAY

THAT PORTION OF LOT 12 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, BEING A PORTION OF LOTS 4, 11 AND 12 OF THE ARLINGTON INDUSTRIAL PARK, AS RECORDED UNDER AUDITOR FILE NUMBER 7803100289, LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M. IN THE CITY OF ARLINGTON, COUNTY OF SNOHOMISH, STATE OF WASHINGTON, LYING 19.00 FEET EASTERLY AND 41.00 FEET WESTERLY OF THE FOLLOWING DESCRIBED ROAD CENTERLINE;

**COMMENCING** AT THE SOUTHWEST CORNER OF SAID LOT 12 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001; THENCE SOUTH  $79^{\circ}00'17''$  EAST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 93.67 FEET TO THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED CENTERLINE; THENCE ALONG A CURVE TO THE RIGHT, WHICH CENTER OF CURVE BEARS SOUTH  $60^{\circ}19'32''$  EAST, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF  $6^{\circ}08'15''$ , AN ARC DISTANCE OF 107.12 FEET; THENCE NORTH  $35^{\circ}48'43''$  EAST, A DISTANCE OF 552.85 FEET; THENCE ON A CURVE TO THE RIGHT, WHICH CENTER OF CURVE BEARS SOUTH  $54^{\circ}11'17''$  EAST, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF  $17^{\circ}42'07''$ , AN ARC DISTANCE OF 308.96 FEET; THENCE NORTH  $53^{\circ}30'50''$  EAST, A DISTANCE OF 232.49 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12, WHICH POINT BEARS SOUTH  $87^{\circ}56'19''$  EAST, A DISTANCE OF 701.61 FEET FROM THE NORTHWEST CORNER OF SAID LOT 12, AND SAID POINT IS THE **TERMINUS** OF THE HEREIN DESCRIBED CENTERLINE.

**TOGETHER WITH** A 15.00 FEET STRIP OF LAND FOR TEMPORARY CONSTRUCTION EASEMENT PURPOSES, SAID STRIP OF LAND LYING BETWEEN 41.00 FEET WESTERLY AND 56.00 FEET WESTERLY OF THE HEREIN DESCRIBED ROAD CENTERLINE.

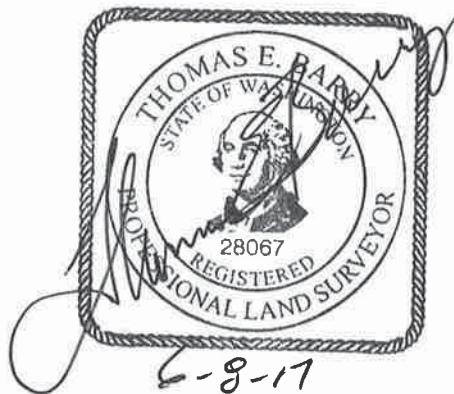


PORTION OF PARCEL NO. 2  
CONVEYANCE RENGEN TO CITY OF ARLINGTON  
Tax Parcel #31051400303100  
Portion of Lot 12 AFN 9802065001

LEGAL DESCRIPTION FOR PORTION OF LOT 12 LYING EAST OF "ARLINGTON VALLEY ROAD" RIGHT OF WAY

THAT PORTION OF LOT 12 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, BEING A PORTION OF LOTS 4, 11 AND 12 OF THE ARLINGTON INDUSTRIAL PARK, AS RECORDED UNDER AUDITOR FILE NUMBER 7803100289, LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M. IN THE CITY OF ARLINGTON, COUNTY OF SNOHOMISH, STATE OF WASHINGTON, LYING EASTERLY OF A LINE 19.00 FEET EASTERLY OF THE FOLLOWING DESCRIBED ROAD CENTERLINE;

**COMMENCING** AT THE SOUTHWEST CORNER OF SAID LOT 12 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001; THENCE SOUTH 79°00'17" EAST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 93.67 FEET TO THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED CENTERLINE; THENCE ALONG A CURVE TO THE RIGHT, WHICH CENTER OF CURVE BEARS SOUTH 60°19'32" EAST, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF 6°08'15", AN ARC DISTANCE OF 107.12 FEET; THENCE NORTH 35°48'43" EAST, A DISTANCE OF 552.85 FEET; THENCE ON A CURVE TO THE RIGHT, WHICH CENTER OF CURVE BEARS SOUTH 54°11'17" EAST, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF 17°42'07", AN ARC DISTANCE OF 308.96 FEET; THENCE NORTH 53°30'50" EAST, A DISTANCE OF 232.49 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12, WHICH POINT BEARS SOUTH 87°56'19" EAST, A DISTANCE OF 701.61 FEET FROM THE NORTHWEST CORNER OF SAID LOT 12, AND SAID POINT IS THE **TERMINUS** OF THE HEREIN DESCRIBED CENTERLINE.



## EXHIBIT A

### ACQUISITION PARCEL

City of Arlington to Vern Rengen

Tax Parcel # 31051400303200

Portion of Lot 11 AFN 9802065001

### LEGAL DESCRIPTION FOR THE PORTION WEST OF THE "ARLINGTON VALLEY ROAD" RIGHT OF WAY

THAT PORTION OF LOT 11 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, BEING A PORTION OF LOTS 9, 10 AND 11 OF THE ARLINGTON INDUSTRIAL PARK, AS RECORDED UNDER AUDITOR FILE NUMBER 7803100289, LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M. IN THE CITY OF ARLINGTON, COUNTY OF SNOHOMISH, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SAID LOT 11 OF THE CITY OF ARLINGTON BOUNDARY LINE ADJUSTMENT, AS RECORDED UNDER AUDITOR FILE NUMBER 9802065001; THENCE SOUTH  $79^{\circ}00'17''$  EAST, ALONG THE SOUTH LINE OF SAID LOT 11, A DISTANCE OF 0.04 FEET; THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT, WHICH CENTER OF CURVE BEARS SOUTH  $78^{\circ}26'22''$  EAST, HAVING A RADIUS OF 1041.00 FEET, THROUGH A CENTRAL ANGLE OF  $17^{\circ}21'10''$ , AN ARC DISTANCE OF 315.28 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 11; THENCE NORTH  $79^{\circ}00'17''$  WEST, ALONG SAID NORTH LINE, A DISTANCE OF 50.49 FEET TO THE NORTHWEST CORNER OF SAID LOT 11; THENCE SOUTH  $10^{\circ}59'36''$  WEST, ALONG THE WEST LINE OF SAID LOT 11, A DISTANCE OF 310.00 FEET TO THE **POINT OF BEGINNING**.

City of Arlington to Vern Rengen 4-19-17

